

FILED

NOT FOR PUBLICATION

FEB 17 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

JERAMIE EITEL,

Petitioner - Appellant,

v.

PATRICIA GORMAN,

Respondent - Appellee.

No. 03-35272

D.C. No. 02-CV-05066-RJB

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert J. Bryan, District Judge, Presiding

Submitted February 13, 2006**

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Jeramie Eitel appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 petition. We have jurisdiction pursuant to 28 U.S.C. § 2253. We review de novo the district court's denial of a habeas petition, *see Dows v.*

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Wood, 211 F.3d 480, 484 (9th Cir. 2000), and we affirm.

Appellant contends that the trial court erred in denying counsel's motion to withdraw and for a continuance to allow new counsel, due to irreconcilable differences. However, upon review of the record, we conclude that the denial did not result in a deprivation of constitutionally effective counsel. *See Schell v. Witek*, 218 F.3d 1017, 1026 (9th Cir. 2000) (en banc); *see also Plumlee v. Del Papa*, 426 F.3d 1095, 1107 (9th Cir. 2005).

Appellant also contends that counsel provided ineffective assistance of counsel. However, appellant failed to demonstrate either deficient performance or prejudice arising from counsel's performance. *See Strickland v. Washington*, 466 U.S. 668 (1984). Because the Washington state court's decision was not contrary to or an unreasonable application of clearly established federal law, appellant is not entitled to relief. *See* 28 U.S.C. § 2254(d); *Williams v. Taylor*, 529 U.S. 362, 412 (2000).

AFFIRMED